

With this amendment, the applicant copies claims 39-101, 103, 104 and 106-122 of the allowed claims 39-122 of the '410 application. These are now presented as claims 53-134. In addition, the applicant copies claims 29, 31 and 32 of the '002 application, published May 6, 2004, presented as claims 135-137. Although the '002 application was published more than one year prior to the filing of this amendment, the applicant herein was claiming essentially the same subject matter. See, for example, original claim 41 of the current application (the recited drain channel is described in the specification as being connected to an aspirator).

The '410 application was published October 28, 2004. The claims now copied from that application are the same (except for minor corrections) as the allowed claims in that application and substantially the same as claims of the published application.

For counts in interference, the applicant suggests device claim 98 and method claim 75 of the '410 patent application, which are now presented as the applicant's claims 112 and 89 of this application. For the Examiner's convenience, each new claim now presented is indicated as corresponding to the appropriate claim number of the '410 or the '002 patent application.

Support for the copied claims is as follows:

Claims 135-137, '002 application claims 29, 31 and 32:

claim 41 of the current application, as noted above, and also claim 44 and page 15 of the specification, discussing an aspirator connected to the applicator to draw off liquids. Drawing off liquids from the surgical cavity via a drain channel in the shaft by definition creates a vacuum condition in the surgical cavity. The "treatment delivery device" i.e. the balloon, is inflatable throughout the current drawings and specification.

Claims 53-69: nearly all drawings show the claimed shaft and inflatable balloon or "expandable member". The use of a radiation source to deliver radiation is discussed throughout the specification, commencing at page 1, first paragraph. See also claim 31, for example. For locations of vacuum ports (claims 54-56), see page 25. For the vacuum lumen of claims 57 and 58, see page 25. Inflation lumen, claim 60: page 25. Ribs of claims 61-62: see Figures 26-30 and pages 26-28. Materials and properties of balloon (claims 63-69): pages 7-9. Note that some of the disclosed materials are inelastic.

Claims 70, 71: insertion of balloon deflated, followed by inflation: pages 3-5, Figures 1-4. Use of radiation delivered via applicator discussed above. Use of vacuum through applicator, to thus conform tissue of cavity to exterior of balloon: page 15 and original claim 44, discussing use of aspirator to draw liquids from cavity. Use of radioactive

material (claim 71): pages 17, 21, original claims 27, 29 and 33.

Claims 72-88: see discussion of claims 53-69, above.

Claim 89: see above, discussion of claims 53-69 and 70-71.

Claim 90: see claim 89, above.

Claims 91-98: see claim 89, above. Regarding withdrawal of applicator, see pages 3-8. See drawings regarding shaft extending out of patient's body cavity (claim 94).

Claim 99: see claims 89-90, above.

Claims 100-110: see claim 70, above. Radioactive material, see pages 17, 21. Spherical shape of balloon: see drawings. Cylindrical shape of radioactive source: see shape of applicator, Figures 1-3A and 10A, for example. Radioactive source: see above. Removal of balloon/applicator: see claim 92, above.

Claim 111: see claim 89, above.

Claims 112-134: see claims 53 et seq., above. Regarding ribs, see Figures 26-30 and pages 26-28. Regarding materials and properties, see claims 53-69, above.